

Assembly Constitutional Amendment

No. 19

Introduced by Assembly Member Allen

March 25, 2011

Assembly Constitutional Amendment No. 19—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of Article II thereof, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

ACA 19, as introduced, Allen. Initiatives.

The California Constitution provides voters, through the initiative, the power to propose statutes and constitutional amendments and to adopt or reject them. An initiative measure may be proposed by presenting the Secretary of State a certified petition signed by electors equal in number to 5% in the case of a proposed statute, and 8% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The Secretary of State is required to submit an initiative measure at the next general election held at least 131 days after it qualifies or at a special statewide election held prior to that general election.

This measure would require the Secretary of State immediately to transmit each certified initiative measure to the Legislature.

This measure would provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes an amendment to the Constitution, the Legislature may amend the measure or the part of the measure that proposes an amendment to the Constitution and adopt it as a legislative constitutional amendment by concurrent resolution, $\frac{2}{3}$ of the membership of each house concurring, within 30 legislative

session days after the transmittal of the initiative measure to the Legislature. If the proponent or a majority of the proponents of the initiative measure accepts the legislative constitutional amendment in lieu of the initiative measure or the part of the measure that proposes an amendment to the Constitution, and the Attorney General determines that the legislative constitutional amendment furthers the purposes of the initiative measure, the initiative measure or the part of the measure that proposes a constitutional amendment would not be submitted to the electors and the legislative constitutional amendment instead would be submitted to the electors.

This measure would also provide that if an initiative measure transmitted to the Legislature, or a part of the measure, proposes a statute, the measure or the part of the measure that proposes a statute may be introduced in the Legislature as a bill. If the bill is enacted as a statute within 30 legislative session days after the transmittal of the initiative measure to the Legislature, and the proponent or a majority of the proponents of the initiative measure accepts the bill as enacted, and the Attorney General determines that the bill as enacted furthers the purposes of the initiative measure, the initiative measure or the part of the measure that proposes a statute would not be submitted to the electors. The Legislature would be authorized to amend or repeal a statute that is enacted in lieu of an initiative measure 6 years or later from its effective date. In addition, the Legislature would be authorized to amend or repeal the statute at any time by another statute passed by a $\frac{2}{3}$ vote or by another statute that is submitted to the voters for approval.

The measure would provide, as to an initiative measure that proposes both a constitutional amendment and a statute, that the alternatives described above are applied to both the constitutional and statutory elements, or neither.

This measure would require the Legislature to return an initiative measure to the Secretary of State within 30 legislative days, as defined, or it would be deemed to have been returned in the same form as originally submitted by the proponents of the initiative measure. A returned initiative measure would be submitted at the next general election that is held at least 150 days after the date the initiative measure qualifies or at any special statewide election held prior to that general election, unless a legislative constitutional amendment is passed or a statute is enacted in lieu of the initiative measure, or unless the proponent or a majority of the proponents of the initiative measure

withdraws the initiative measure not later than 90 days prior to the date of the election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2011–12 Regular
3 Session commencing on the sixth day of December 2010,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 That Section 8 of Article II thereof is amended to read:

8 SEC. 8. (a) The initiative is the power of the electors to
9 propose statutes and amendments to the Constitution and to adopt
10 or reject them.

11 (b) An initiative measure may be proposed by presenting to the
12 Secretary of State a petition that sets forth the text of the proposed
13 statute or amendment to the Constitution and is certified to have
14 been signed by electors equal in number to 5 percent in the case
15 of a statute, and 8 percent in the case of an amendment to the
16 Constitution, of the votes for all candidates for Governor at the
17 last gubernatorial election.

18 (c) *Upon certification of an initiative measure pursuant to*
19 *subdivision (b), the Secretary of State immediately shall transmit*
20 *the measure to the Legislature.*

21 (d) *If an initiative measure transmitted to the Legislature*
22 *pursuant to subdivision (c), or a part of that measure, proposes*
23 *an amendment to the Constitution, the Legislature may amend the*
24 *measure or the part of the measure that proposes an amendment*
25 *to the Constitution and may pass the amended form of the measure*
26 *as a legislative constitutional amendment by concurrent resolution,*
27 *two-thirds of the membership of each house concurring, within 30*
28 *legislative days after the transmittal of the initiative measure to*
29 *the Legislature. If the proponent, or a majority of the proponents,*
30 *if applicable, of the initiative measure accepts the legislative*
31 *constitutional amendment in lieu of the initiative measure or the*
32 *part of the measure that proposes an amendment to the*
33 *Constitution, and so informs the Secretary of State, and the*
34 *Attorney General determines that the legislative constitutional*
35 *amendment furthers the purposes of the initiative measure, the*

1 initiative measure or the part of the measure that proposes a
2 constitutional amendment shall not be submitted to the electors
3 and the legislative constitutional amendment instead shall be
4 submitted to the electors.

5 (e) If an initiative measure transmitted to the Legislature
6 pursuant to subdivision (c), or a part of that measure, proposes a
7 statute, the measure or the part of the measure that proposes a
8 statute may be introduced in the Legislature as a bill. If the bill,
9 including any amendments adopted by the Legislature, is enacted
10 as a statute within 30 legislative session days after the transmittal
11 of the initiative measure to the Legislature and the proponent, or
12 a majority of the proponents, if applicable, of the initiative measure
13 accepts the bill as enacted, and so informs the Secretary of State,
14 and the Attorney General determines that the bill as enacted
15 furthers the purposes of the initiative measure, the bill shall take
16 effect in accordance with this Constitution and, notwithstanding
17 subdivision (c) of Section 10, the initiative measure or the part of
18 the measure that proposes a statute shall not be submitted to the
19 electors. The Legislature may amend or repeal a statute enacted
20 pursuant to this subdivision by another statute that takes effect not
21 sooner than six years from the date the statute enacted pursuant
22 to this subdivision takes effect. In addition, the Legislature at any
23 time may amend or repeal a statute enacted pursuant to this
24 subdivision by another statute passed with two-thirds of the
25 membership of each house concurring, or by another statute that
26 becomes effective only when approved by the electors.

27 (f) If an initiative measure that is transmitted to the Legislature
28 pursuant to subdivision (c) proposes both an amendment to the
29 Constitution and a statute, both of the following apply:

30 (1) Unless the conditions of subdivision (d) that would cause
31 the constitutional amendment portion of the initiative measure not
32 to be submitted to the electors are satisfied, subdivision (e) shall
33 not apply to the statutory portion of the initiative measure.

34 (2) Unless the conditions of subdivision (e) that would cause
35 the statutory portion of the initiative measure not to be submitted
36 to the electors are satisfied, subdivision (d) shall not apply to the
37 constitutional amendment portion of the initiative measure.

38 (g) (1) The Legislature shall return an initiative measure, unless
39 a legislative constitutional amendment is passed or a statute is
40 enacted, or both, in lieu of the initiative measure as provided in

1 subdivisions (d), (e), and (f), to the Secretary of State within 30
2 legislative session days after the measure is transmitted to the
3 Legislature. If the measure is not returned within 30 legislative
4 session days, it shall be deemed to have been returned in the same
5 form as it was initially presented to the Secretary of State.

6 ~~(e) The~~

7 (2) The Secretary of State shall then submit the measure at the
8 next general election held at least ~~131~~ 150 days after it qualifies
9 or at any special statewide election held prior to that general
10 election, except as provided in subdivisions (d) and (e), or unless
11 the proponent, or a majority of the proponents, if applicable, of
12 the initiative measure withdraws the measure not later than 90
13 days prior to the date of the election at which the measure is
14 scheduled to be submitted to the electors, and so informs the
15 Secretary of State. The Governor may call a special statewide
16 election for the measure.

17 ~~(d)~~

18 (h) An initiative measure embracing more than one subject may
19 not be submitted to the electors or have any effect.

20 ~~(e)~~

21 (i) An initiative measure may not include or exclude any political
22 subdivision of the State from the application or effect of its
23 provisions based upon approval or disapproval of the initiative
24 measure, or based upon the casting of a specified percentage of
25 votes in favor of the measure, by the electors of that political
26 subdivision.

27 ~~(f)~~

28 (j) An initiative measure may not contain alternative or
29 cumulative provisions wherein one or more of those provisions
30 would become law depending upon the casting of a specified
31 percentage of votes for or against the measure.

32 (k) For purposes of this section, "legislative session day" means
33 a day on which the Members of both houses of the Legislature are
34 required to be in Sacramento to attend a session of the Legislature.